



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

Post-Workshop Comments of the Environmental Law and Policy Center on Electricity Resource Adequacy in MISO Zone 4

ELPC appreciates the opportunity to submit these post-workshop comments on MISO Zone 4 Resource Adequacy issues. These comments respond to issues raised in the pre-workshop comments of other parties and expand the concerns outlined in ELPC's November 30, 2017 pre-workshop comments.

I. There is no Existing Problem with Resource Adequacy or Reliability

Dynegy has failed to present convincing evidence that there is an existing or projected resource adequacy problem in Zone 4. The facts and experiences of the past two decades strongly suggest that MISO is fully capable of responding to potential closures of inefficient, noncompetitive plants and that other suppliers will respond to market signals. Nothing in the pre-workshop comments provides new evidence that there is a resource adequacy problem looming for Zone 4. Dynegy argues in its comments that removing some of its generators from Zone 4 (either through shutdown or through selling to other markets) would erase the excess capacity found in the OMS Survey for DY 2018-2019 through 2022-2023.

It is important to underscore as a threshold matter, ELPC notes that Sierra Club, NRDC, and others discussed in their pre-workshop comments that the OMS Survey is more likely to underestimate than overestimate the amount of capacity that is expected in Zone 4 going forward. This would significantly reduce any impact that retirement of Dynegy's plants would have on resource adequacy even under its somewhat crude analysis of subtracting its endangered capacity from the OMS totals.

Even beyond differences of opinion about how to interpret the OMS survey and how Dynegy plant retirements would affect those estimates, Dynegy's analysis gives short shrift to the ability for the existing market structures to handle resource adequacy as they have in the 20 years since Illinois restructured its electric markets. The PRA is a residual market designed to pay for any resource adequacy needs that are not funded elsewhere in the market through self-supply and Fixed Resource Adequacy Plan ("FRAP") submissions. As IIEC summarized, only 14.7% of the

total required Zone 4 capacity came from the PRA in DY 2017-2018. The remaining 85% of the capacity requirement came from FRAP and self-supply resources, many of which used bilateral contracts to meet capacity needs. Dynegy itself has significant bilateral capacity contracts in the MISO footprint and it is unclear based on Dynegy's comments how much its plants must rely on revenue from the PRA to continue operating.¹

As IIEC noted in its pre-workshop comments, FRAP and self-supply through bilateral contracts have effectively ensured resource adequacy in Zone 4 since Illinois restructured its electricity market 20 years ago. These existing markets, which provide significant flexibility in the MISO footprint, would be significantly hampered by any changes that would reduce the flexibility that LSEs and market participants currently have for ensuring resource adequacy at least cost. In other words, the current system and markets work and intervention would be counterproductive.

II. A Multi-Year Forward Capacity Construct is not a Solution

Dynegy and other commenters' emphasis on the need for capacity procurement further in advance of the applicable delivery year and through longer-term contracts is misplaced. While there can be advantages to procuring long-term contracts several years in advance of a delivery year, this is currently allowed in the MISO capacity construct in the form of bilateral contracts and FRAPs. Requiring all capacity to be procured in advance through IPA forward capacity hedging, an IPA FRAP, or a change in the PRA would have significant downsides. We also note that such an approach would not necessarily be enough to ensure the capacity revenues Dynegy claims it needs to keep its plants in operation.

These requirements would significantly reduce the flexibility that has worked to maintain resource adequacy at low prices for the past 20 years. Requiring long-term capacity procurement might provide certainty for incumbent generators, but it would constrain LSEs and other market participants. It would, for example, reduce the flexibility of ARES to comply with MISO's resource adequacy requirements and act to unduly increase costs for retail customers. It could also preference incumbent generators by reducing the ability of new generators to negotiate contracts with customers on a short-term basis.

¹ See Dynegy SEC Form 10-Q for the quarterly period ended September 30, 2017, filed November 1, 2017 (describing over 2 GW of bilateral capacity sold for DY 2018-2019 as of December 2016), *available at* <http://www.dynegy.com/investors/sec-filings>

III. Greater Transparency in the Retirement Process Would Help the Existing Markets Better Function

As IIEC noted in its comments, MISO is currently updating its Attachment Y process for providing notice of generation retirements and suspensions. MISO's most recent proposal provides some expansion on transparency by making public Attachment Y notices when a unit retires regardless of whether there were transmission reliability problems caused by the retirement; nevertheless, it fails to expand the notice requirement or provide true transparency in the process. As proposed, generators need to file an Attachment Y notice 26 weeks in advance of their proposed change in status.² The notices are not made public until retirement, so market participants, LSEs, and other stakeholders cannot properly react to these known changes in status until the last minute. This is especially problematic because it eliminates the kind of information that could make bilateral contracts more efficient and effective.

Further, this lack of transparency reduces the ability for potential new entrants to know whether or not there will be a need for new generation prior to shutdown. While a multi-year forward capacity market serves to send some of these signals to the market, it does so at significant cost and complexity. Simply making Attachment Y notices public and requiring notice filings further in advance of change in status would significantly enhance the existing MISO capacity construct. Increasing transparency will provide greater opportunity for markets to respond to resource adequacy issues.

IV. Uncertainties About Zone 4 and Dynegy Require a Slower Process

In its pre-workshop comments, ELPC noted that FERC's pending Notice of Proposed Rulemaking regarding generator resiliency could have significant effects on generator compensation and availability. At that time, ELPC and others anticipated that FERC would have issued a decision in mid-December. Since the workshop, however, FERC has received an extension from the Department of Energy and is not scheduled to release any information until January 10, 2018.

Beyond the FERC NOPR, the merger of Dynegy and Vistra raises significant questions about what Zone 4 resources are or are not actually vulnerable to shutdown. Further, PJM's proposed price formation reform could directly or indirectly impact MISO. Finally, the recently enacted

² The current proposal does away with retirement notices altogether and lumps everything under suspension.

Future Energy Jobs Act will lead to substantial new renewable development and a decrease in load in Zone 4. This expansion of energy efficiency programs and renewable energy generation will have an impact on MISO Zone 4 capacity and resource adequacy planning. These uncertainties mean that this ICC workshop process is not well-positioned to provide sufficient information about what should happen in Zone 4, despite the best intentions and hard work of ICC staff and the many workshop participants.

Respectfully Submitted



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